

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 186

HOUSE BILL NO. 2250

By Representatives Barker, Mike Turner, Cooper

Substituted for: Senate Bill No. 2298

By Senators Kyle, Ford

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 31, Title 39, Chapter 17, Title 40, Chapter 33, Title 40, Chapter 35, Title 55, Chapter 10, Title 57, Chapter 5, Title 63, Chapter 22, Title 68, Title 71, Chapter 3, relative to alcohol and drug services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated § 4-31-703 is amended by deleting the section in its entirety and by substituting instead the following:

As used in this part, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of mental health and developmental disabilities;

(2) "Construction" means construction, acquisition, reconstruction, improvement, equipping, furnishing, bettering, or extension of a facility, including paying engineering, fiscal, architectural and legal expenses incurred in connection therewith;

(3) "Department" means the department of mental health and developmental disabilities;

(4) "Facility" means "facility" as defined in § 33-2-402(2);

(5) "Grantee" means a nonprofit, 26 U.S.C. § 501(c)(3) corporation that is licensed under §§ 33-2-402 -- 33-2-415 and §§ 68-11-201 -- 68-11-250, which is under a grant contract with the department, and which has the primary purpose of delivering mental health, developmental disabilities, or alcohol and drug services; and

(6) "Project" means the facility or portion of a facility, the construction of which is being financed or refinanced by a loan pursuant to this part.

SECTION 2. Tennessee Code Annotated §§ 4-31-706(d)(1) and (2) are amended by deleting the language "commissioner of health" and by substituting instead the language "commissioner of mental health and developmental disabilities".

SECTION 3. Tennessee Code Annotated § 4-31-710(a)(1) is amended by deleting the section in its entirety and by substituting instead the following:

(1) The project to be financed from the proceeds of such bonds or notes constitutes a facility in accordance with § 33-2-402(2);

SECTION 4. Tennessee Code Annotated § 39-17-439(b) is amended by deleting the language “commissioner of health” and by substituting instead the language “commissioner of mental health and developmental disabilities”.

SECTION 5. Tennessee Code Annotated § 40-33-211, is amended by deleting the language “department of health” wherever it occurs and by substituting instead the language “department of mental health and developmental disabilities”.

SECTION 6. Tennessee Code Annotated § 40-35-303(d)(11)(B) is amended by deleting the language “department of health” and by substituting instead the language “department of mental health and developmental disabilities”.

SECTION 7. Tennessee Code Annotated, Section 55-10-403(c)(1)(B), is amended by deleting the language "department of health" and by substituting instead the language "department of mental health and developmental disabilities".

SECTION 8. Tennessee Code Annotated § 63-22-113(b) is amended by deleting the language “certified under § 33-2-801 [repealed]” and by substituting instead the language “licensed under § 68-24-605”.

SECTION 9. Tennessee Code Annotated § 68-11-202(a)(1) is amended by deleting the language “ and facilities operated for the provision of alcohol and drug prevention and treatment services”.

SECTION 10. Tennessee Code Annotated, Section 68-11-203(a)(1), is amended by deleting the language “twenty (20)” and by substituting instead the language “nineteen (19)” and by deleting the language "one (1) of whom shall be representative of the drug and alcohol abuse service profession”.

SECTION 11. Tennessee Code Annotated § 68-11-203(a)(3) is amended by deleting the language “The new member from the drug and alcohol abuse treatment profession shall be added to the board on July 1, 1993, and shall serve for four (4) years.”.

SECTION 12. Tennessee Code Annotated § 68-11-204(a)(1) is amended by deleting the language “alcohol and drug prevention and treatment facility, ”.

SECTION 13. Tennessee Code Annotated § 68-11-206(a) is amended by deleting the language “alcohol and drug prevention and treatment facility,”.

SECTION 14. Tennessee Code Annotated § 68-11-213(b) is amended by deleting the language “or alcohol and drug treatment center”.

SECTION 15. Tennessee Code Annotated § 68-24-101, is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-101.

This chapter shall be known and may be cited as the "Comprehensive Alcohol and Drug Treatment Act of 1973."

SECTION 16. Tennessee Code Annotated §§ 68-24-102 is amended by deleting the section in its entirety and by adding the following as a new § 33-10-102.

As used in this section, unless the context otherwise requires:

(1) "Alcohol abuse" means a condition characterized by the continuous or episodic use of alcohol that results in social impairment, vocational impairment, psychological dependence or pathological patterns of use;

(2) "Alcoholism" means alcohol abuse that results in the development of tolerance or manifestation of alcohol abstinence syndrome upon cessation of use;

(3) "Drug abuse" means a condition characterized by the continuous or episodic use of a drug or drugs that results in social impairment, vocational impairment, psychological dependence or pathological patterns of use;

(4) "Drug dependence" means drug abuse that results in the development of tolerance or manifestations of drug abstinence syndrome upon cessation of use;

(5) "Indigent person" means a person whose income or resources are determined to be insufficient to pay for needed alcohol and drug abuse services as determined by the department;

(6) "Maintenance" means the cost of all institutional and professional services received by a patient or resident;

(7) "Resident of Tennessee" means an individual who has lived continuously in Tennessee for a period of sixty (60) days and who has not acquired residence in another state by living continuously in another state for at least sixty (60) days subsequent to residing in Tennessee. Time spent in a public institution for the care of the mentally ill or for the mentally retarded, or on leave of absence from the institution, shall not be counted in determining the question of residence in Tennessee or in another state; and

(8) "Treatment resource" means any public or private facility, service, or program providing treatment or rehabilitation services for alcohol and drug dependence, mental illness or serious emotional

disturbance, including, but not limited to, detoxification centers, licensed hospitals, community mental health centers, clinics or programs, halfway houses, and rehabilitation centers. This does not include any entity otherwise licensed by the department of health.

SECTION 17. Tennessee Code Annotated § 68-24-103 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-103.

(a) Alcoholism and drug dependence are addictive disorders and are recognized and declared to be primary, progressive and chronic diseases and a public health problem affecting the general welfare and economy of the state. The need for proper and sufficient facilities, programs and procedures within the state for the control and treatment and rehabilitation and recovery of alcohol and drug dependent persons is recognized. It is declared that the procedures for the securing of services for such persons are not punitive but rather are for the purpose of treatment of an illness affecting not only the individual involved but also the public welfare.

(b) The policy of the state with reference to alcoholism and drug dependence is declared to be as follows:

(1) The prevention of alcoholism and drug dependence should be accomplished in a number of ways, including public education concerning the causes, symptoms, and nature of alcoholism and drug dependence. In order to so educate the public, the department shall prepare and distribute suitable educational material to the schools and interested members of the public, render assistance to suitable local agencies, and provide activities promoting public interest in and information about substance abuse and dependence;

(2) As a component of the program described in subdivision (b)(1), the department, in coordination with the department of education, shall increase efforts to educate and raise public awareness of the dangers of methamphetamine manufacture and abuse, including, but not limited to, distribution of public information materials designed to oppose methamphetamine abuse, and shall direct persons suffering from the effects of methamphetamine abuse to proper treatment resources;

(3)

(A) Programs for assisting the rehabilitation of alcohol and drug dependent persons are properly instituted, financed, and sponsored locally by interested citizens or agencies organized to:

(i) Meet the particular needs of each local community; and

(ii) Utilize the available personnel and facilities in each local community;

(B) It is the policy of the state to render needed advice, guidance and assistance in the organization and conduct of such approved local facilities and to supplement local efforts and financing by providing personnel and matching grants or funds; and

(4) Individuals who receive alcohol or drug abuse services should be required to pay the reasonable cost of counseling, assistance, treatment or rehabilitation furnished to them; however, no one should be refused assistance because of the inability to pay for such services.

SECTION 18. Tennessee Code Annotated § 68-24-104 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-104.

(a) The department, through its commissioner, is vested with all necessary and incidental powers for carrying into effect the purposes and programs set forth in this chapter, including the power to promulgate rules and regulations governing the admission, care and discharge of individuals committed and/or admitted for alcohol and drug abuse evaluation or treatment as the commissioner deems necessary or appropriate.

(b)

(1) It is the duty of the department to formulate and effect a plan for the prevention of alcohol and drug abuse and for the care, treatment and rehabilitation of alcohol and drug dependent persons.

(2) In formulating and effecting such plan, the department shall:

(A)

(i) Furnish such aid to alcohol and drug abusers in such manner as to afford them with the greatest benefit; and

(ii) Have the power in this connection to make suitable arrangements with hospitals or

clinics that afford them proper treatment, care or rehabilitation;

(B) Provide services through existing mental health centers, clinics and other appropriate treatment resources, including state hospitals;

(C) Carry on educational and informational programs on alcoholism and drug dependence for the benefit of the general public, consumers, professional persons or others who care for or may be engaged in the delivery of alcohol and drug abuse services;

(D)

(i) Cooperate with physicians and treatment resources in making arrangements for the treatment and care of indigents; and

(ii) Have authority to arrange for payment for hospital care on a cost basis for such individuals;

(E)

(i) Formulate, undertake and carry out a research and evaluation program on alcoholism and drug dependence; and

(ii) Participate in, cooperate with, and assist, as in its discretion shall be deemed advisable, other properly qualified agencies, including any agency of the federal government, schools of medicine, and hospitals or clinics, in planning and conducting research on the prevention, care, treatment and rehabilitation of alcohol and/or drug dependence;

(F) Serve as a clearinghouse for information relating to alcohol and drug abuse;

(G) Develop, encourage and foster statewide, regional and local plans and programs in the field of alcoholism and drug dependence;

(H) Review, comment upon and assist public agencies and local governments with applications for grants or other funds for services for alcohol and drug abusers to be submitted to the federal government;

(I) Enlist the assistance of public and voluntary health, education, welfare, and rehabilitation agencies in a

concerted effort to prevent and treat alcohol and drug abuse and dependence;

(J) Encourage the development of rehabilitation projects for industries in the state; and

(K) Encourage the development of new treatment facilities.

(c)

(1) Through direct administration or through contracting with service providers, the department shall establish comprehensive, culturally relevant, drug and alcohol abuse prevention pilot programs. The pilot programs shall be located in those areas of the state that are especially in need of such programs and that will generate sufficient data to thoroughly measure and evaluate the overall efficiency and effectiveness of such programs. The pilot programs shall include, but not necessarily be limited to, the following:

(A) Performance of a minority community needs assessment analysis in order to document specific prevention, treatment, and health care needs;

(B) Identification of high risk groups within the minority community;

(C) Arrangement for delivery of needed prevention, treatment and other health care services from among those available to the minority community;

(D) Delivery of a limited number of needed prevention, treatment and health care services not readily available to the minority community;

(E) Utilization of community volunteers and outreach workers to:

(i) Establish rapport;

(ii) Provide individual support and encouragement; and

(iii) Facilitate networking among social, religious, educational, and community agencies and program personnel;

(F) Development and implementation of a culturally relevant public awareness campaign specifically designed to target the minority community; and

(G) Serve as models for the establishment of similar programs in other parts of the state.

(2) Each year, on or before December 31, the department shall report to the governor and to each member of the general assembly concerning implementation of the pilot programs and shall include within such report the findings and recommendations of the department regarding the effectiveness and efficiency of the pilot programs.

(3) Implementation of the provisions of this subsection (c) shall be limited to the level of funding provided for such purpose within the general appropriations act.

(d) In formulating a plan for the prevention of alcohol and drug abuse and for the care, treatment and rehabilitation of alcohol and drug dependent persons, the department shall make appropriate provision for ensuring that all state and local programs coordinated by the department pursuant to this section, and that are targeted at children and youth, shall address, through culturally relevant education activities, the hazards of nicotine abuse.

(e)

(1) Through grants contracted with community based agencies, the commissioner is authorized to plan, establish, and administer pilot projects to develop effective and efficient prevention and treatment services for low-income, pregnant substance abusers. Each of the pilot projects should, to the extent possible within available funding, provide the following:

(A) Public information programs culturally appropriate to the target populations; such information programs to include brochures, public service announcements, and other creative and effective means of communication;

(B) Community outreach, interagency liaison, interagency referral mechanisms, and specialized training for maternal and child health providers;

(C) Residential beds dedicated exclusively for rehabilitation of low income, pregnant substance abusers;

(D) Intensive, outpatient slots dedicated exclusively for treatment of low income, pregnant substance abusers;

(E) Family intervention services throughout the term of the pregnancy and during a period of postpartum follow-up;

(F) Specialized support services needed to ensure effectiveness of rehabilitation and treatment, including, but not necessarily limited to, transportation services and day care;

(G) Enhanced physician oversight of treatment modalities, to be provided at a level prescribed by the commissioner; and

(H) Documentation and recordkeeping sufficient to enable the commissioner to objectively and systematically evaluate the effectiveness and efficiency of the various components of the pilot projects.

(2) In seeking funding support for the pilot projects, the commissioner is authorized to utilize the resources of the United States alcohol, drug abuse, and mental health administration, the United States office of substance abuse prevention, as well as other public and private funding sources for substance abuse prevention and treatment programs. Implementation of the pilot projects shall be limited to the level of funding and resources obtained and provided for such purpose.

SECTION 19. Tennessee Code Annotated § 68-24-105 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-105.

Admission to inpatient programs under this chapter shall be governed by the provisions of § 33-6-201, title 33, chapter 6, part 4, and title 33, chapter 6, part 5.

SECTION 20. Tennessee Code Annotated § 68-24-106 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-106.

The department, through its commissioner, is empowered to:

(1) Enter into contractual agreements with institutions and individuals in furtherance of its function of prevention, treatment, training, research or education;

(2) Accept grants and gifts of funds, from whatever source derived, administer the grants and gifts according to the terms of the grants or gifts and enter cooperative programs with private and public instrumentalities, including the federal government, for

the betterment of alcohol and drug prevention and treatment services in the state;

(3) Enter into contractual agreements with other states, or political subdivisions of other states, or corporations chartered in such other states, for the purpose of providing alcohol and drug services for those persons in need of prevention and treatment; and

(4) Enter into contractual agreements with counties, or agencies of counties, of the state for the inpatient treatment of alcohol and drug patients or residents.

SECTION 21. Tennessee Code Annotated § 68-24-201 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-201.

A person charged with or convicted of a crime may be admitted under § 33-6-201 to an appropriate treatment resource, in accordance with the provisions of law relating to probation, parole, or other disposition of persons charged with or convicted of criminal offenses.

SECTION 22. Tennessee Code Annotated § 68-24-202 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-202.

(a) Whenever any citizen is taken into custody solely because of a condition of intoxication or similar condition, it shall be the duty of the arresting officer to promptly present the citizen before a judicial officer.

(b) If the judicial officer finds that the citizen is in need of and willing to accept medical treatment for the citizen's condition, then the judicial officer shall order the arresting officer to conduct the citizen to a place of treatment, if available, and the delivery of the citizen to the designated place of treatment shall effectively release and discharge the arresting officer and judicial officer from any further duties or liability in connection with the arrest.

SECTION 23. Tennessee Code Annotated § 68-24-203 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-203.

(a) All arrests and court proceedings for public intoxication or drunkenness in this state shall be under the provisions of § 39-17-310, to

the exclusion of any common law or statutory offense now being enforced.

(b) No county, municipality or other political subdivision of this state shall adopt any local law, ordinance, resolution or regulation having the force of law rendering public intoxication or drunkenness in and of itself or being a common drunkard or being found in enumerated places in an intoxicated condition, an offense, a violation of the subject of criminal or civil penalties or sanctions of any kind.

(c) Nothing contained in this section shall affect any laws, ordinances, resolutions or regulations against drunken driving, driving under the influence of alcohol, or other similar offenses that involve the operation of motor vehicles, machinery or other hazardous equipment.

(d) Any fines collected under § 39-17-310 shall be retained by the unit of local government over which the court has jurisdiction.

SECTION 24. Tennessee Code Annotated § 68-24-401 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-401.

The general assembly finds that any proposition to increase the legal drinking age raises many issues and involves many organizations in both the public and private sector. First, a disproportionate number of fatal highway accidents involve both people under twenty-five (25) years of age and the use of alcoholic beverages. Second, the public school system is not consistently using a curriculum that emphasizes the effects of alcoholic beverages on individuals and their communities. Third, resources for early intervention programs for high-risk children who abuse alcoholic beverages are widely scattered and often unavailable to many children. Fourth, the state of Tennessee does not presently operate or have a contractual relationship for residential treatment facilities for the care and treatment of children who abuse alcoholic beverages and other drugs. Fifth, sanctions for present violations of the Tennessee alcoholic beverage and beer licensing statutes concerning sales to minors are often not imposed, because of varying standards, as well as a lack of knowledge on the part of licensing authorities.

SECTION 25. Tennessee Code Annotated § 68-24-402 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-402:

(a) The department of mental health and developmental disabilities shall establish a comprehensive treatment program for substance abusing youth in Tennessee. The program shall include

residential care and treatment and necessary day treatment, outpatient and intervention services to support residential care.

(b) As an alternative to building new facilities, the department may contract with hospitals or other health care institutions that provide the services required by this part.

SECTION 26. Tennessee Code Annotated § 68-24-501 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-501.

This part shall be known and may be cited as the "Alcohol Abuse Prevention Act of 1990," and shall establish programs and procedures to permit the detention and treatment of persons intoxicated or incapacitated by alcohol.

SECTION 27. Tennessee Code Annotated § 68-24-502 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-502.

The provisions of this part shall be an alternative to title 33, chapter 10, part 2. The provisions of this part shall apply to a county and shall take effect only upon adoption of a resolution by the county legislative body electing to establish programs and procedures for the detention and treatment of such persons in such county pursuant to this part and to provide appropriate first year funding for such programs.

SECTION 28. Tennessee Code Annotated § 68-24-503 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-503.

(a) It is the policy of this state that intoxicated persons should be afforded a continuum of treatment so they might lead normal lives as productive members of society.

(b) The general assembly finds that alcoholism and intoxication are matters of statewide concern.

(c) The general assembly recognizes the character and pervasiveness of alcohol abuse and alcoholism and that public intoxication and alcoholism are health problems that should be handled by public health rather than criminal procedures, when proper facilities, procedures, and services as defined and set forth in this part are available.

(d) The general assembly finds that this health problem has been seriously neglected and that the costs and the waste of human resources caused by alcohol abuse and alcoholism are massive, tragic and no longer acceptable.

(e) The general assembly finds that the best interests of this state demand a locally-oriented attack on the massive alcohol abuse and alcoholism problem.

(f) The general assembly finds that the handling of intoxicated persons as criminals contributes to jail overcrowding and the consumption of resources needed for the handling of more serious and violent matters.

(g) The general assembly finds that there is a need for alternative programs in this state for the detention and treatment of persons intoxicated or incapacitated by alcohol.

SECTION 29. Tennessee Code Annotated § 68-24-504 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-504.

As used in this part, unless the context otherwise requires:

(1) "Approved private treatment facility" means a private agency meeting the standards prescribed by the department and licensed by the department of mental health and developmental disabilities;

(2) "Approved public social services facility" means a not-for-profit social services agency meeting the standards prescribed by the local courts acting in consultation with the county health department;

(3) "Approved public treatment facility" means a not-for-profit treatment agency operating under the direction and control of or approved by the health department of any county to which this part applies or providing treatment under this part through a contract with the department and licensed by the department of mental health and developmental disabilities;

(4) "Custodial health officer" means an employee of the county health department trained in detecting intoxication and/or incapacitation of persons due to the consumption of alcohol and/or drugs and also trained in the proper handling and transport of such persons;

(5) "Department" means the health department of any county to which this part applies;

(6) "Director" means the director of the health department of any county to which this part applies;

(7) "Health professional" means a person trained and licensed in the health sciences, including medical doctors, registered nurses and licensed practical nurses;

(8) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious or that such person's judgment is otherwise so impaired that the person is incapable of realizing and making a rational decision with respect to such person's need for treatment, is unable to take care of such person's basic personal needs or safety, or lacks sufficient understanding or capacity to make or communicate rational decisions concerning such person's welfare;

(9) "Intoxicated person" or "person intoxicated by alcohol" means any person who meets a condition or the conditions set forth in § 39-17-310;

(10) "Licensed physician" means either a physician licensed by the state of Tennessee or a hospital-licensed physician employed by the admitting facility;

(11) "Magistrate" or "judicial commissioner" means those officials as defined by § 40-5-101 or created by § 40-5-201; and

(12) "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and/or social service care, vocational rehabilitation and/or career counseling, that may be extended to alcoholics and intoxicated persons.

SECTION 30. Tennessee Code Annotated § 68-24-505 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-505.

To carry out the purposes of this part, counties may:

(1) Make any contract necessary or incidental to the implementation of this part, including contracts with public and private not-for-profit agencies, organizations and individuals to provide funds for services rendered or furnished to alcoholics or intoxicated persons;

(2) Solicit and accept any gift or grant of money, services or property from any private source or from the state or federal government, or any agencies or any political subdivision of state

or federal government, and cooperate in making application for such grants;

(3) Coordinate activities, cooperate with alcoholism programs and make contracts and other joint or cooperative arrangements with state, local or private agencies in this state and other states for the treatment of alcoholics and intoxicated persons pursuant to this part;

(4) Keep records and engage in research and the gathering of relevant statistics;

(5) Acquire, hold or dispose of real property, or any interest in real property, and construct, lease or otherwise provide treatment facilities or social services facilities for alcoholics and intoxicated persons; and

(6) Do whatever is necessary or convenient to execute the authority expressly granted in this part.

SECTION 31. Tennessee Code Annotated § 68-24-506 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-506.

A person charged with or convicted of a crime may be admitted under § 33-6-201 to an appropriate treatment resource in accordance with the provisions of law relating to probation, parole or other disposition of persons charged with or convicted of criminal offenses.

SECTION 32. Tennessee Code Annotated § 68-24-507 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-507.

(a) Any county may, pursuant to this part, provide facilities and services for the treatment and/or housing of a person intoxicated and/or incapacitated by alcohol in lieu of arrest. In such county or counties, when any person is intoxicated or incapacitated by alcohol and is clearly dangerous to the health and safety of the person or others, the person may be taken into protective custody by law enforcement authorities or custodial health officers, acting with probable cause, and taken to an approved treatment or social services facility. For purposes of determining whether a person is clearly dangerous to the person's health and safety, the degree of intoxication alone is sufficient, if the enforcement officer reasonably believes that the individual is unable to avoid severe impairment or injury from specific risks by, or as a result of intoxication.

(b) In determining whether a person should be taken to a treatment or social services facility in lieu of arrest under the provisions of subsection (a), the law enforcement officer or custodial health officer shall consider all of the following:

(1) Whether the person is likely to engage in a violation of the law while being transported to the treatment or social services facility or while at the facility;

(2) The type of services available at the treatment or social services facility that are not readily available at the jail to which the person would be taken upon arrest;

(3) Whether the treatment or social services facility has space available; and

(4) The amenability of the person to the treatment or services provided by the treatment or social services facility.

(c) A law enforcement officer or custodial health officer, in detaining the person, is taking such person into protective custody. In so doing, the detaining officer may use reasonable protective methods, but shall make every reasonable effort to protect the detainee's health and safety. A taking into protective custody under this section is not an arrest and no entry or other records shall be made to indicate that the person has been arrested or charged with a crime. Any warrantless search conducted under the provisions of this part is strictly limited by the circumstances justifying the search. A law enforcement officer or custodial health officer who acts in compliance with this section is acting in the course of official duties and shall not be held criminally or civilly liable for the officer's actions.

(d) The law enforcement officer or custodial health officer shall, upon presenting the detained person to the treatment or social services facility, make written application for the detainee's evaluation and treatment at the facility. Such application shall be directed to the administrator of the facility and shall state the circumstances requiring evaluation, detention and treatment, including the applicant's personal observations and the specific statements of other persons having relevant knowledge of the person's intoxication and/or incapacitation, and the danger posed to the person or others, upon which the officer relies in initially detaining the person and in making the application. A copy of the application shall be furnished to the person to be detained. The facility may adopt policies governing the eligibility and criteria for admission.

(e)

(1) If the approved treatment or social services facility administrator or the administrator's designee, after examination by a health professional for the purpose of determining whether the person is intoxicated and/or incapacitated by alcohol, approves

the application consistent with purposes of this part and the admission policies, the person may be detained for evaluation and treatment for such period of time as the grounds for the detention as stated in the application for admission exist.

(2) However, without regard to the decision of the facility administrator, all such persons detained under this part shall be presented to a magistrate or judicial commissioner without unnecessary delay, for the purpose of determining whether the person can be held and treated pursuant to this part. Also, without regard to the decision of the facility administrator or magistrate or judicial commissioner, any person who refuses treatment or evaluation or requests release shall be released immediately, unless the person is detained in accordance with title 33, chapter 6, part 4.

(f) If the approved treatment or social services facility administrator, or the administrator's designee, or the magistrate or judicial commissioner, determines that the application fails to sustain the grounds for detention as set forth in subsection (a), the application for detention shall be refused and the person detained shall be immediately released, and the person shall be encouraged to seek voluntary treatment, if appropriate.

(g) When the administrator, based upon the recommendation of the health professional, determines that the grounds for commitment no longer exist, the administrator shall discharge the person committed under this section, unless the person seeks and obtains voluntary treatment under § 33-6-201.

(h) In those cases where involuntary commitment becomes necessary, such commitments shall be governed by title 33, chapter 3, part 6.

SECTION 33. Tennessee Code Annotated § 68-24-508 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-508.

(a) The registration and other records of treatment facilities shall remain confidential and are privileged.

(b) Notwithstanding subsection (a), the director may make available information from patients' records for purposes of research into the causes and treatment of alcoholism. Information under this subsection (b) shall not be published in a way that discloses patients' names or other identifying information.

SECTION 34. Tennessee Code Annotated § 68-24-509 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-509.

(a) Patients in any approved treatment or social services facility shall be granted opportunities for visitation and communication with their families and friends consistent with an effective treatment program. Patients shall be permitted to consult with counsel at any time. The facility administrator shall, in determining whether to detain a person under this part, also give due consideration to the immediate effect on the individual's employment and shall detain such individual only when such individual's immediate welfare dictates.

(b) Neither mail nor other communication to or from a patient in any approved treatment or social services facility may be intercepted, read or censored. The approved treatment or social services facility may adopt reasonable policies regarding the use of the telephone in the facility.

SECTION 35. Tennessee Code Annotated § 68-24-510 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-510.

(a) All arrests and court proceedings for public intoxication or drunkenness in this state shall be pursuant to § 39-17-310, to the exclusion of any common law or statutory offense now being enforced.

(b) No county, municipality or other political subdivision of this state shall adopt any local law, ordinance, resolution or regulation having the force of law rendering public intoxication or drunkenness, in and of itself, or being a common drunkard or being found in enumerated places in an intoxicated condition, an offense, a violation of which is the subject of criminal or civil penalties or sanctions of any kind.

(c) Nothing contained in subsection (b) shall affect any laws, ordinances, resolutions or regulations against drunken driving, driving under the influence of alcohol or other similar offenses that involve the operation of motor vehicles, machinery or other hazardous equipment.

(d) Any fines collected under § 39-17-310 shall be retained by the unit of local government over which the court has jurisdiction.

SECTION 36. Tennessee Code Annotated, Section 68-24-701, by deleting the language "commissioner of health" wherever such language appears and by substituting instead the language "commissioner of mental health and developmental disabilities".

SECTION 37. Tennessee Code Annotated § 68-24-702 is amended by deleting the section in its entirety.

SECTION 38. Tennessee Code Annotated § 71-3-154(k)(2)(A)(i)(d) is amended by deleting the language “department of health, division of alcohol and drug abuse services” and by substituting instead the language “department of mental health and developmental disabilities”.

SECTION 39. Tennessee Code Annotated § 57-5-205(1) is amended by deleting the language “chapter 8” and by substituting instead the language “chapter 10”.

SECTION 40. Tennessee Code Annotated § 68-1-601 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-601.

This part shall be known, and may be cited as the
"Comprehensive Alcohol, Tobacco and Other Drug Prevention Program
Act."

SECTION 41. Tennessee Code Annotated § 68-1-602 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-602.

As used in this part, unless the context otherwise requires:

(1) “Commissioner” means the commissioner of mental health and developmental disabilities; and

(2) “Department” means the department of mental health and developmental disabilities.

SECTION 42. Tennessee Code Annotated § 68-1-603 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-603.

There is created, within the department of mental health and developmental disabilities, the comprehensive alcohol, tobacco and other drug prevention program grant.

SECTION 43. Tennessee Code Annotated § 68-1-604 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-604.

(a) Subject to the availability of funding in the general appropriations act, grants shall be provided, in such amounts as determined by the commissioner, to organizations that have, or that develop, a resistance training/social skills program to provide the necessary tools to the youth of Tennessee, to aid them in successfully resisting peer and media pressures to use alcohol, tobacco and other drugs, and to understand the physical and social changes taking place in their lives.

(b) In order to qualify for a grant, the components of a program offered by an organization must, at a minimum, have:

(1) An in-service training that provides staff and volunteers with an overview of the program, and suggests ways to incorporate the prevention message into any other programs offered by the organization;

(2) A skills development program for boys and girls ages six (6) to nine (9) years of age. The program focus on this age group shall be on self-awareness, decision-making and interpersonal skills, while communicating age-appropriate information about alcohol, tobacco and other drugs;

(3) A resistance skills program for youth nine (9) to twelve (12) years of age, that focuses on ways to identify and resist peer, social and media pressures to use alcohol, tobacco and other drugs;

(4) A social skills program for adolescents thirteen (13) to fifteen (15) years of age, that teaches resistance skills, stresses reduction techniques, communication skills, assertiveness training and life planning, and that provides accurate information about alcohol, tobacco and other drug use;

(5) A program for parents, that emphasizes communication skills and factual information about alcohol, tobacco and other drug use; and

(6) A plan that implements community service projects in which youth and adults work as a team, the end result of which enhances the self-esteem of the participating youth, and gives them a sense of accomplishment and a sense of belonging to the community.

(c) If the program of an organization provides some, but not all, of such components, then, in the discretion of the commissioner, the organization may qualify for a percentage of the grant that equates to the percentage of the components the organization offers.

SECTION 44. Tennessee Code Annotated § 68-1-605 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-605.

The commissioner shall develop:

(1) The criteria for determining how available funds for grants shall be disbursed to qualifying organizations; and

(2) The application and appeals process for issuing such grants.

SECTION 45. Tennessee Code Annotated § 68-1-606 is amended by deleting the section in its entirety and by adding the following language as a new, appropriately designated section:

Section 33-10-606.

The commissioner is authorized to take any necessary action, subject to Title 33, in order to effectuate the purposes of this part.

SECTION 46. Tennessee Code Annotated § 33-2-402 is amended by adding the following sections and redesignating the subsequent subsections accordingly.

() "Alcohol and drug prevention and/or treatment facility" means an institution, treatment resource, group residence (boarding home, sheltered workshop, activity center), rehabilitation center, hospital, community mental health center, DUI school, counseling center, clinic, halfway house, or other entity, by these or other names, providing alcohol and drug services; provided, that a DUI school operated by a state institution of higher education shall not be considered an alcohol and drug treatment facility for purposes of this chapter; further, "alcohol and drug prevention and treatment facility" does not include any facility otherwise licensed by the department of mental health and developmental disabilities or health or approved by the department of education;

() "Alcohol and drug services" includes evaluation, treatment, residential personal care, habilitation, rehabilitation, counseling, or supervision of persons who abuse or are dependent upon alcohol or drugs; or services to persons designed to prevent alcohol or drug abuse or dependence which either receive funds from the department of health or assess fees for services provided; provided, that a DUI school operated by a state institution of higher education shall not be considered alcohol and drug services for purposes of this chapter;

() "Commissioner" means the commissioner of mental health and developmental disabilities, the commissioner's authorized representative, or in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner of health;

() "Department" means the department of mental health and developmental disabilities;

SECTION 47. Tennessee Code Annotated § 33-2-402(2) is amended by deleting the section in its entirety and by substituting instead the following:

(2) "Facility" means a developmental center, treatment resource, group residence, boarding home, sheltered workshop, activity center, rehabilitation center, hospital, community mental health center, counseling center, clinic, halfway house, or any other entity that provides a mental health or developmental disabilities service or an alcohol and drug prevention and/or treatment facility;

SECTION 48. Tennessee Code Annotated § 68-11-202(f) is amended by deleting the section in its entirety.

SECTION 49. Tennessee Code Annotated, Section 55-10-403(r)(2), is amended by deleting the language "commissioner of health" and by substituting instead the language "commissioner of mental health and developmental disabilities".

SECTION 50. Tennessee Code Annotated, Section 68-11-201, is amended by deleting subdivisions (1) and (2) in their entirety.

SECTION 51. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: April 27, 2009



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 7th day of May 2009


PHIL BREDESEN, GOVERNOR